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No.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

IN THE MATTER OF OWEN W. CRUMPACKER

OWEN W. CRUMPACKER, *Appellant,*

v.

INDIANA SUPREME COURT DISCIPLINARY COMMISSION, *Appellee*

On Appeal From a Judgment Entered By The Indiana Supreme Court in an Original Action in Said Court Convicting Appellant of Indirect Criminal Contempt and Sentencing Him to Serve a Prison Term in the Department of Correction.

APPELLANT'S APPENDIX IN SUPPORT OF JURISDICTIONAL STATEMENT UNDER RULE 15(j)

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APPENDIX

IN THE
SUPREME COURT OF INDIANA

IN THE MATTER OF	)	
	)	CAUSE NO.
OWEN W. CRUMPACKER	)	974 S 187

TRANSCRIPT OF PROCEEDINGS

held on April 4, 1984, in Room 317, Supreme Court of Indiana Chambers, State House, Indianapolis, Marion County, Indiana.

Court Reporter: Jamie F. Martin, RPR

APPEARANCES:

FOR INDIANA SUPREME COURT DISCIPLINARY COMMISSION:

GREGORY M. FUDGE
and
WILLIAM G. HUSSMAN, JR.
Room 814 ISTA Building
Indianapolis, Indiana 46204

BEFORE:

Richard M. Givan, Chief Justice
Roger O. DeBruler, Justice
Dixon W. Prentice, Justice

4:28 O'clock P.M.
April 4, 1984

CHIEF JUSTICE GIVAN: The Court has before it this afternoon the matter of Owen W. Crumpacker, and it bears the Supreme Court Cause No. 974 S 187. Let the record show that in attendance are Mr. Greg Fudge and Mr. William Hussmann of the Disciplinary Commission and Mr. Owen Crumpacker.

We have a situation here, Mr. Crumpacker, we have been trying to resolve for some time. In order to review the matter before the Court, let me first inform you that you have been brought here in a matter of possible contempt of this Court for failure to appear for a hearing. I will advise you that the sequence of events leading to the matter was on the 15th day of August, 1983, this Court issued an order

to you to show cause why you should not be cited for contempt of Court. That particular situation arose out of the allegation of the Disciplinary Commission that you had been practicing law contrary to an order of this Court.

On the 4th day of October, 1983, we received from you a motion for a continuance in this matter, and on the same day we granted you that continuance. On the 4th day of October, 1983, that occurred.

On the 31st day of October, 1983, this matter was ordered reset on a matter to show cause why you should not be cited for contempt. On the 15th day of November, 1983, the date set for the rehearing, the Disciplinary Commission appeared and was ready for the hearing. However, the Court was notifed that you were not available, that you were not

present in the courtroom. This Court heard some testimony from the Disciplinary Commission concerning the attempts to give service upon you and notify you of the hearing that was to transpire on November 15th.

On November 16th, this Court issued an order for your arrest for failure to appear at that hearing. Also on the 16th day of November, 1983, an arrest warrant was issued. It is my understanding that you are now before this Court pursuant to service of that warrant on you by Detective Longfellow of the Lake County Sheriff's Department and that you are now in the custody of the Sheriff of this Court, the Indiana State Police, to appear before this Court.

The time has been great here, Mr. Crumpacker. There has been a lot of intervening time since you were ordered

to appear that you have, for some reason known only to yourself, failed and refused during that entire period of time to surrender yourself to the jurisdiction of this Court for possible action on the original citation started by the Disciplinary Commission to which I first referred. Do you have any explanation you would like to make to the Court for your failure to appear?

MR. CRUMPACKER: Yes.

CHIEF JUSTICE GIVAN: If you would like to approach the microphone there, we might be able to hear you a little better.

MR. CRUMPACKER: If the Court please, I wanted to make this point, that this afternoon, I would say around one o'clock -- I don't remember the exact time -- I was served for the first time with a document which Your Honor is

familiar with dated November 16th, 1983, which was an order for arrest, and attached to it is an arrest warrant. It is certified over the signature of Marjorie O'Laughlin. This is the first time that I have seen or been served with a copy of the warrant, and I respectfully suggest that I be given an opportunity to prepare and file a motion to quash the warrant that was served upon me for the first time.

I wanted to point out to the Court that I did write the Clerk and the Court some time ago for copies of the warrant, and I did not receive them. I wanted to point this out, that I think that sometime in December, if I am not mistaken, I was advised, that is, through my wife, that a stay of this warrant which I had never seen had been granted and that I was advised that if I would reside in Illinois and if my wife

would put up our house for sale and move to Kalamazoo, Michigan, that no efforts would be made by the Court to proceed further with reference to these proceedings.

Now, I was advised by, I think, the Sheriff, either directly or indirectly, that if I was in the state of Illinois that I couldn't pursue the remedies in the Federal Court in Hammond with which the Court is familiar. The Court, I think, is aware of the fact that a habeas corpus action was filed by me sometime in October. That is a USDC Miscellaneous 31. I believe another action the Court is familiar with, Cause No. 588, was filed, I think, on October 28th and copies of the papers served upon the Court -- now, at least it was my belief in good conscience that the litigation in the United States District

Court for the Northern District of Indiana, Hammond Division, gave that Court full and complete jurisdiction over the matters in controversy here. At least that was my honest and good faith belief, and it was in that vein and in that mind that I was undertaking to prosecute those cases in the United States District Court.

I wanted to point out to the Court that I was informed -- I wanted to point out to the Court that initially I was not served with any notice or order to appear in this Court on the 15th of November. There was no service of any kind made upon me, and I wanted to, as part and parcel of my appearance here today, move to quash the arrest warrant on the ground that there is statement to the effect that I was served on November 9th with a notice to appear. I can tell the Court that I was not served with

such a notice, that I had previously filed, as the Court is aware, a motion to dismiss challenging the jurisdiction of this Court. And I had learned that -- I had heard, that is, indirectly through my daughter, Amy, who had called the Court that there was to be a hearing on November 15th, and I filed a motion in good faith stating that I was without funds under oath to attend and that further that I was suffering from an eye disease of a serious nature that had been discovered when I was released from Putnamville for which I had been under treatment and that that ailment was had -- I lost, I think, practically all the sight of my eyes through what they call macular disintegration or something of that kind and that for those reasons that I, in addition to being without funds, that I move to quash any notice

or any hearing, if there was one. Those were all made in good faith.

Afterward, as I say, sometime in December, I was advised that the arrest warrant had been recalled and that I then undertook to, upon advice of the Sheriff, I guess, that I was advised that I could pursue my legal remedies in the Federal Court if I proceeded to reside in Illinois, and I did get ahold of the Sheriff's office in Cook County and the United States Attorney in Cook County and was advised that there was absolutely no possible way that I could be interfered with in my pursuit of these Federal Court remedies in the state of Illinois where I had access to a library in Chicago, things of that kind, and that if there was any desire on the part of anyone to prosecute the warrant, it would have to proceed by a governor's warrant at the capitol of the

state of Illinois.

I wanted the Court to know that on Monday I had an appointment with the Mayo Clinic, which is scheduled for tomorrow morning at eight o'clock, for the purpose of appearing up there to check into the new laser beam technique that has been announced in the papers on January 22nd. And when I was advised of the existence of this new technique, I made arrangements to -- I made an appointment at the Clinic and then undertook to get in touch with the doctors over at the Ingalls Hospital and to assemble these records for the prupose of going up to the clinic and undertaking to have my eyes examined and possible operations, that is, next week, in the Saint Mary's Hospital in Rochester, Minnesota.

I think that at noon my wife

came down from Kalamazoo, Michigan, on Monday for the purpose of organizing my physical equipment preparatory for this trip and advanced $196 for my round trip fare on Northwest Orient Airlines, which is to leave tonight at eight o'clock, and I went to my offices -- it was noon -- to pick up the medical information to take with me to the Mayo Clinic. And at that time this Darryl Longfellow met me as I was leaving my office and brought me down here.

CHIEF JUSTICE GIVAN: Now, anytime during this period of time that you have recited, did you make any formal notice to this Court or formal inquiry concerning the status of this warrant that you knew to be outstanding against you?

MR. CRUMPACKER: Yes, I did, if the Court please.

CHIEF JUSTICE GIVAN: Who did

you contact?

MR. CRUMPACKER: I wrote the Court, wrote the Judges and wrote the Clerk, and then I also make inquiry of the Sheriff's Office. I made inquiry of the County Attorney who appeared of record for the Sheriff of Lake County, and that is with reference to the existence or nonexistence of this warrant. I was under the impression and believed in good faith that it had been recalled --

CHIEF JUSTICE GIVAN: Whom did you rely upon for such information that it had been recalled? You received no written information from this Court that it had been recalled.

MR. CRUMPACKER: No, I didn't. I wrote the Court, as I say. I wrote the Court and asked for -- I had never seen the warrant. Anything I knew about

it was hearsay, so that, as far as I was concerned, I was not aware of any of its contents until I was given a copy this afternoon on my way down here, and I represent to the Court that I had checked, to the best of my ability, with the Sheriff's Office in Crown Point, with the Clerk's Office to find out whether or not there was any warrant outstanding. And through none of these sources was I able to ascertain that such a warrant was, in effect, outstanding.

CHIEF JUSTICE GIVAN: Mr. Crumpacker, let me inform you, when I received your request for a copy of the warrant, our Clerk was advised to forward to you a copy of the warrant, which she did on that date with a return receipt requested. It was mailed, and it was returned to us refused by you.

MR. CRUMPACKER: It was not --

let me make this point: To the best of my knowledge, may it please the Court, I never received a copy of it. It was not refused by me. There was no way that I could have refused it. I was unaware of that until today. This is the first time I have heard of it, if it please the Court.

CHIEF JUSTICE GIVAN: Mr. Crumpacker, if you requested a copy be sent to you, wouldn't you be expecting it to come?

MR. CRUMPACKER: That would all depend -- I could only tell you what the facts were, that there was no way that I could receive that document, no way whatsoever because at least I was in Illinois, and I don't know where it was addressed to, but I can represent to the Court that I had never received a copy of this document until today --

CHIEF JUSTICE GIVAN: I don't know that that's at all necessary that you receive a copy, but we tried to comply with your request, and if you now tell us you don't know how you could have received it, I don't know why you made the request.

MR. CRUMPACKER: I was anxious to get a copy of it to see what the document was, and that's the reason I wrote. And I can only represent to the Court that I at no time refused it. At no time was there ever any copy delivered to me, and today is the first time that I have been advised that such a document had been sent.

CHIEF JUSTICE GIVAN: I think that's really beside the point. I think what we are here for today is to determine whether or not you had been notified and knew of the proposed hearing to be held November the 15th,

1983, in this courtroom where you failed to appear.

MR. CRUMPACKER: I only say this, if the Court please, that in that respect I answered the Court to the best of my ability, and that is according to the arrest warrant, there is a statement made that I was served on November 9th. I was never served with any notice, and I was and am of the opinion that there was no compulsory duty upon my part to appear before this Court on the --

CHIEF JUSTICE GIVAN: Now, I am looking at the sworn testimony of Darryl Longfellow, who represents himself to be a detective of the Lake County Sheriff's Department. He testified here on the 15th of November that he had gone to your office on the 9th of November; that he knew you personally; that he stood on one side of

a glass door where he could see through the glass of the door, and he could see you in your room in the office with your secretary, a woman named Pam; and that he saw you sitting there eating a sandwich, and she was eating a sandwich; that he knocked and tried to get you to come to the door. You would not converse or come to the door, but Pam did converse with him, notified him that you would not receive the papers. He notified her in your hearing what he had, the papers for you to appear at the hearing on the 15th, and that Pam relayed the message from you to him in his presence, in his sight, that you would not accept the papers. I believe he testified that he pushed the papers under the door, nevertheless, and that he left the premises then. Do you recall that episode when you could see him through the door?

MR. CRUMPACKER: No, I do not. The only thing that I can tell you, at least from my standpoint, I was unaware of the presence of Captain Longfellow or Darryl Longfellow. I do not know of any conversations that he may have had with Pam. I do know that there was a -- and I'm trying to think back, but I do know that there was a colored lady that was there that came to the door, and there were two other people, as I was advised, from South Bend, Indiana, that came over. I was told that there were four people that had come to my office that day.

CHIEF JUSTICE GIVAN: Did you see the colored lady yourself?

MR. CRUMPACKER: I did not see her. I was told that she was there, but I did not see her at all.

CHIEF JUSTICE GIVAN: You

didn't see the detective, that is, Detective Longfellow, through the glass door?

MR. CRUMPACKER: No, I did not. I did not see Captain or Darryl Longfellow. I did not know that he was there, and as far as I was concerned, the only information that I have with reference to anybody being at or near my office was information that I received over the telephone at a restaurant, at the Embers Restaurant, when I was told that there had been four people at or near my office that day and that they were advised that I was not there.

CHIEF JUSTICE GIVAN: Now, Mr. Crumpacker, you had been notified and received notice, had knowledge to notice of the first setting of this case.

MR. CRUMPACKER: That's true.

CHIEF JUSTICE GIVAN: And you filed a continuance.

MR. CRUMPACKER: That's true.

CHIEF JUSTICE GIVAN: And that continuance was granted.

MR. CRUMPACKER: Yes, that's true.

CHIEF JUSTICE GIVAN: Now, when they atempted to give you notification of the second setting, did you not anticipate, that your continuance having been granted, that the matter would be set at some time?

MR. CRUMPACKER: I did not, Your Honor, and as I mentioned to the Court, the reason for it was that after the first notice, I filed motions to quash and a request for argument with regard to the jurisdiction of the Court. That was not ruled upon, to the best of my knowledge, until the 21st of November.

I addition to that, I

instituted, as I mentioned to the Court, on October 28th a proceeding in the United States District Court, had notices served upon the Court that I was going to be seeking a hearing on November 9th in the Federal Court in Hammond, and I was under the impression that complete jurisidction over the subject matter was vested in the Federal Court in Hammond. And for that reason, it was my belief that it was -- my remedy was in that Court and that I was hopeful, and I think notices were served upon Your Honor.

I know that I received return receipt notices to the effect that I will appear in the Federal Court on November 7th or as soon thereafter as I could be heard seeking a temporary or an injunction against the prosecution of these proceedings so that, at least, it was my candid belief that the Court,

that is, the United States District Court in Hammond, had full and complete and exclusive jurisdiction over the subject matter of these proceedings.

CHIEF JUSTICE GIVAN: I gather you kept track of that proceeding in the Hammond District Court, did you not?

MR. CRUMPACKER: What, did I --

CHIEF JUSTICE GIVAN: You had filed a petition, and you kept track of your petition and the progress thereof in that Court, didn't you?

MR. CRUMPACKER: No, I did not. The truth of the matter is -- if the Court please, the truth of the matter is, I was, during most of the month of December, I was ill, and I was in New Jersey in the latter part of the month. And there was absolutely no way that I could or did keep in touch with the case in the Federal Court.

CHIEF JUSTICE GIVAN: You were not aware they denied your petition for restraining order?

MR. CRUMPACKER: No, I have never seen it. I don't believe it's ever been acted upon. My belief is, it's never been ruled upon.

CHIEF JUSTICE GIVAN: Have you made inquiry of that Court of the status of your case?

MR. CRUMPACKER: If the Court please, I have undertaken, to the best of my ability -- or incidentally, I think that I have undertaken to write letters and to obtain copies of documents, and I have obtained, at least of recent date, to the best of my ability, copies of the records in that case.

I can only tell you that it has been difficult, almost impossible, for me to -- with the condition of my

eyes, the condition of my health, the lack of clerical assistance, the lack of funds, to keep track of the proceedings in the United States District Court. I do believe that I intend to and hope that those cases will be resolved. And I can only say that those cases were prosecuted in good faith, and it's my understanding -- I have not seen anything about it except in the newspapers, but I have understood that the Court, that a Judge in Chicago by the name of Posner entered a ruling of some kind in which, according to the newspaper, he had full jurisdiction over the parties in this subject matter, in this very business, and I believe -- there again, I have not seen any orders, but I believe, having read the newspaper articles that emanated here, that he had jurisidiction and had given me until the

15th of May to distinguish between the cases that were filed on November 28th, November 10th and November 15th under the Organized Crime Control Acts and other caes that had been earlier prosecuted.

Now, I say I have understood that the Court has entered orders, I say only from the newspaper, in which that has acquiesced in the jurisdiction of the Court. Now, if that's true -- and I have not seen the orders. If that is true, that does, it seems to me, confirm the very thing that I have been attempting to tell the Court. Least of all, I am just asking the Court that I be given an opportunity to prepare and file a motion to quash the arrest warrant because I have never seen it before and because on its face, at least, it's blatantly erroneous. And I believe, at least to the best of my

ability, that is the remedy that I would suggest that we be permitted to pursue.

I do think that as far as I am concerned, I was hopeful -- now, that is in good faith -- to be able to get to Rochester, Minnesota to make an appointment at eight o'clock in the morning with a further appointment with the eye doctors at the eye clinic on the 7th floor of the Mayo Building the day after tomorrow to proceed with the medical remedy that I, at least, sorely need. For that reason, I am suggesting that the Court discharge the warrant and permit me to attend to my medical problems. I will reduce the motion to quash in writing. I will file affidavits under oath with reference to any matters that appear in the warrant, and I don't believe that any useful purpose would be served by not

discharging the arrest warrant or at least releasing me from custody so that I can address myself to the document.

It is very hard for me to explain to the Court why or under what circumstances documents were not delivered to me. I can only represent to the Court that as far as I am concerned, I did not receive nor did I refuse any documents from this Court. I have been under the impression, for reasons I think have been stated, that a warrant had been stayed and that, apparently, it had been either withdrawn or abandoned, and every check -- I checked carefully with the Sheriff's Office, with the Clerk's Office in Hammond and was aware --

CHIEF JUSTICE GIVAN: How about with my office?

MR. CRUMPACKER: What?

CHIEF JUSTICE GIVAN: How

about my office? Did you call my office and find out?

MR. CRUMPACKER: Yes, I did, if the Court please.

CHIEF JUSTICE GIVAN: And what did you learn?

MR. CRUMPACKER: To the best of my ability, I did not receive any response as to whether there was or was not a warrant outstanding. I did not receive a response. I can only say that, which I am certain is true. Had I been aware of it or had I been furnished with a copy, I think I would have addressed myself to that warrant and --

CHIEF JUSTICE GIVAN: Let me say for the record, Mr. Crumpacker, that I never received any call from you. I received numerous calls from both your wife and your daughter, and at all times I have notified them that the warrant,

in fact, was outstanding, and it would be certain they asked me if the warrant could be withdrawn. They gave me several reasons, most of which you have covered, that they would like the warrant to be withdrawn, and I continuously advised them that the warrant had not been withdrawn, that if you were found in Indiana, you would be arrested. I presume they conveyed that information to you.

I will say for the record, I did not get to talk to you personally, and each incident of contact between me and members of your family was instituted by them, not by me.

MR. CRUMPACKER: May I respond to that, if the Court please?

CHIEF JUSTICE GIVAN: You may.

MR. CRUMPACKER: I can only tell the Court in conscience directly that not one of my daughters with whom

you may have been in contact with advised me at anytime that the warrant was outstanding, and, as a matter of fact, the most recent correspondence that I had on that subject was to the effect that they did not know whether it was or was not outstanding. My wife, who came from Kalamazoo, Michigan Monday afternoon and was unaware of the status of any arrest warrant. And if you had talked to her about it, I am satisfied that she would have told me because she was completely uninformed. She was led to believe, I believe, that if she moved to Kalamazoo and bought a condominium up there, which she did, and moved up there and that I was making arrangements for medical treatment that the warrant or whatever the proceedings were would be abandoned. I have written my daughters with reference to any specific

information about it, and I can only tell the Court that on no occasion did they or any one of them make any statement to me that the warrant was not outstanding.

Now why they wouldn't tell me that, I don't know. But I am only saying, at least as far as I am concerned, I was under the impression and believe that that warrant had been withdrawn and due to the circumsttances that I mentioned. I can only state what I know to be the facts, and as I say, the first time I have seen it, and I have attempted to get a copy of it, was today when I was delivered a copy in Hammond. And I read it on the way down here and would like to have the opportunity of being released to attend my medical problems, and I will prepare a motion under oath addressed to the item which I have in front of me.

CHIEF JUSTICE GIVAN: Mr. Crumpacker, in view of your past performance in this matter, how are we to believe if we would release you today to set about the business of preparing a motion to quash, how are we to believe that you will, in fact, file one or that you will ever respond to us again unless brought here by a law enforcement officer?

MR. CRUMPACKER: I can only advise Your Honor that I don't think that in the history of this state there has been anyone more prolific than I have been in this case in responding to pleadings, orders, things of that kind that have to do with my freedom and responsibilities in this case. I think -

CHIEF JUSTICE GIVAN: I would certainly have to agree with that, Mr. Crumpacker. That has been accomplished

in absentia, the way your papers have been in abundance, but your person has been in abundant absence.

MR. CRUMPACKER: Let me make this point, that when I came down here on February 11th, 1982, as the Court is aware, I asked for a stay to enable me to put my effects in order. I asked that I be released on bail. I asked for the right to prosecute an appeal. All of those matters were denied, and I was taken preemptorily to Putnamville for 90 days. And when I was taken to Putnamville for 90 days, necessarily I was unable, either mechanically or physically or any other way, to prosecute my cases by reason of any appeals. My office was closed, and it took me almost -- I can't answer the -- I know how to go through the travail, but as I say, the point that I am trying to get at is that at least I have taken

every step that I know of, to the best of my limits and my capcities, my physical condition, et cetera, to respond in complete good faith and to attempt to pursue the remedies which I believe are adequate. And I am talking about the remedies in the Federal Court and other remedies that I am asking the Court to recognize here.

I would say I can't believe -- I mean, it's hard for me to believe that the Court would or should have any problem in quashing a warrant that is predicated upon my failure to appear in response to a notice that was allegedly served on November 9th, which was never served upon me and where, at least to the best of my ability, another Court had prior jurisidiction. And a hearing had been set on November 7th in the Federal Court. At least I made that

application, and I had been in communication with the Attorney General that I think entered an appearance for the Court. I had been in direct communication with the Assistant County Attorney in Hammond that represesnted Darryl Longfellow, and I had every reason to believe that the warrant had been withdrawn.

Now, that is the -- and I cannot believe that --

CHIEF JUSTICE GIVAN: Do you have a question?

JUSTICE DEBRULER: No.

CHIEF JUSTICE GIVAN: Do you have a question?

JUSTICE PRENTICE: No.

CHIEF JUSTICE GIVAN: I believe the Court has heard what you want to say, Mr. Crumpacker. If you will resume your seat, the Court will take a brief recess.

We will retire in the Robing Room. We will attempt to reach a decision here, and we will be available shortly to let you know what that decision might be. You will remain in the custody of the Sheriff pending that time.

(Brief recess.)

CHIEF JUSTICE GIVAN: Mr. Crumpacker, it is the feeling of this Court that we have been exceedingly patient with you in this matter. This has drawn on for quite some time.

MR. CRUMPACKER: Could I be heard just one moment?

CHIEF JUSTICE GIVAN: I think we have reached our decision, Mr. Crumpacker. We might allow you to make a statement after we make our pronouncement here. We would allow you to make a statement, but until that

time, we will proceed with the Court's statement.

MR. CRUMPACKER: Before Your Honor states the ruling, I only want to say that I am prepared to submit testimony under oath supporting what I have said, and further, that I believe that I would like an opportunity to file a verified return --

CHIEF JUSTICE GIVAN: We understand that Mr. Crumpacker. We will proceed and then let you make your statement.

We feel we have been exceedingly fair with you, and we have been patient. We have attempted to permit you tc make very effort to approach this Court in the proper manner, a manner which we know you are very capable of doing, if you so desire. The finding of this Court is that we find no reason to believe that the

hearing on November 15th, 1983 would be stayed by reason of the filings of the United Staes District Courts. We find that the service of notice by Officer Longfellow on November 9th, 1983 was adequate and in compliance with all of the principles of due process.

We further find there is no basis in fact for the responsdent's alleged belief that the arrest warrant had been withdrawn. We further find that all requests by the respondent by mail and through his family were considered an appropriate address by this Court.

We therefore make the following order: Comes now the respondent, Owen W. Crumpacker, and appears pursuant to the warrant for his arrest issued by this Court on November 16th, 1983, to answer why he should not

be held in contempt for his failure to appear on November 15th, 1983, as previously ordered. And this Court being duly advised now finds that the respondent, Owen W. Crumpacker, was served on November 15th, 1983; that the respondent failed to appear as ordered; and that the respondent has not demonstrated that he should not be held in contempt for his failure to appear as ordered by this Court.

In view of the above considerations, this Court now finds that the respondent, Owen W. Crumpacker, has engaged in direct criminal contempt of this Court by failing to appear on November 15th, 1983 as ordered. It is therefore ordered, adjudged and decreed by this Court that the respondent, Owen W. Crumpacker, is sentenced to serve a term of 30 days in Indiana State Farm for direct criminal contempt of this

Court.

Those provisions of law authorizing the diminution of sentence for good time served shall not apply. Done this 4th day of April, 1984, signed, Richard M. Givan, Chief Justice of Indiana.

Mr. Crumpacker, we have further served you the following notice: This notice is captioned in the Supreme Court of Indiana in the Matter of Owen W. Crumpacker, Cause No. 974 S 187, order resetting show cause hearing. The respondent, Owen W. Crumpacker, now appearing before this Court is hereby directed and ordered to appear on May 21st, 1984 at 10:00 A.M. in this Court's chambers, Room 317, State House, Indianpolis, Indiana, for a hearing to show cause why you shall not be held in contempt of an order of the Indiana

Supreme Court as set forth in the verified information of contempt filed in this cause on July 25th, 1983.

It is furtehr ordered that the Clerk of this Court shall forward a copy of this order to the parties in this proceedings. Read to the respondent in open Court and entered this 4th day of April, 1984, signed Richard M. Givan, Chief Justice of Indiana.

Mr. Crumpacker, that is following the expiration of the sentence at Farm. We would expect you to be presnt on May 21st at 10:00 A.M. for the further proceedings in this matter. You will be furnished with a copy of the transcript and proceedings that were held on the 18th of November in this Court, and I believe it was the 18th -- no, the 15th, that we held on the 15th November in this Court. And you will be given ample time to study that

transcript and make your response thereto.

Now, do you have any statements you wish to make, Mr. Crumpacker?

MR. CRUMPACKER: If the Court please, I respectfully ask that the order that Your Honor has just read be stayed to enable me to employ counsel and to take steps to appeal from this decision. I see no harm in permitting a stay to be issued for a reasonable time to enable me to employ counsel and prepare a response, and, if necessary, to ask for bail and to permit me to look after my physical disabilities.

I ask that the order be stayed to enable me to take those steps, and I represent to the Court that unless bail is furnished me and unless a stay is permitted, I would have no means or

method of protecting my legal rights. I do say that if the Court does grant a stay, I will, within 10 days, file a verified return to the order that I just saw today and that the Court does have it within its power to permit me to employ counsel and to return to the Mayo Clinic to take those steps. For that reason, I am asking in conscience that the Court stay the execution of this order for a reasonable time to permit those activities to take place.

CHIEF JUSTICE GIVAN: Mr. Crumpacker, had you responded promptly to this situation back in November, you would be in much firmer footing to make such a request to this Court. But in view of the fact of the delay, in view of the fact that we were required to have this warrant executed by the Sheriff of Lake County and that you had to be transported down here, the Court

will deny your request. You will be remanded to the custody of the Sheriff of this Court for the carrying out of the sentence which we have read. You will be delivered by him to the Farm at his earliest convenience.

(The hearing was concluded at 5:38 P.M. on April 4, 1984.)

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

C E R T I F I C A T E

I, Jamie F. Martin, a Notary Public Stenotype Reporter, do hereby certify that the foregoing transcript is a true and complete account of the proceedings had in this matter as heretofore set forth, to the best of my knowledge and belief.

IN WITNESS WHEREOF, I have hereunto affixed my Notarial Seal and executed my signature below this ____ day of April, 1984.

/s/ Jamie F. Martin
Jamie F. Martin

My Commission Expires:

December 14, 1987

STATE OF INDIANA)		IN THE SUPREME
)	SS	COURT OF THE
COUNTY OF MARION)		STATE OF INDIANA
IN THE MATTER OF)		
)		CAUSE
OWEN W. CRUMPACKER)		NO. 974 S 187

JUDGE'S CERTIFICATE

BE IT REMEMBERED, that on the 23rd day of April, 1984, the Court Reporter used by this Court, Jamie F. Martin, presented and tendered to the undersigned, Richard M. Givan, Chief Justice of the Supreme Court, State of Indiana, this transcript containing the evidence in said cause for settlement and signature, and prayed that the same might be signed and made a part of the record in this cause;

And now, having fully examined this transcript of the evidence, the undersigned does now certify the same to be a full, true, correct and complete

transcript of the proceedings, and that this transcript correctly sets forth and contains all of the evidence given in the trial of said cause.

And this transcript is now settled, approved, signed, and it is hereby Ordered that said Transcript shall be filed and be made part of the Record in this Office of the Clerk of this Court.

IN WITNESS THEREOF, I have hereunto set my hand and affixed the Seal of this court, this 27th day of April, 1984.

/s/ Richard M. Givan
Richard M. Givan
Chief Justice of Indiana

Seal

Filed
Oct. 31, 1983

IN THE

SUPREME COURT OF INDIANA

IN THE MATTER OF	)	
	)	CAUSE No.
OWEN W. CRUMPACKER	)	974 S 187

ORDER RE-SETTING SHOW CAUSE HEARING

This Court, having previously granted Respondent's Verified Petition for Continuance, now, on its own motion, finds that this matter must be again scheduled for hearing to determine the issues set forth under the Verified Information for Contempt and Petition for Order to Show Cause filed by the Disciplinary Commission of the Supreme Court on July 25, 1983, in this cause.

IT IS, THEREFORE, ORDERED, ADJUGED AND DECREED, that the Respondent, Owen W. Crumpacker, appear before this Court at Room 317 (Supreme

Court of Indiana Chambers), State House, Indianapolis, Indiana, on the 15th day of November, 1983, at ten o'clock A.M., for a hearing to show cause why he should not be held in contempt of an Order of the Indiana Supreme Court as set forth in the Verified Information of Contempt filed in this cause on July 25, 1983.

IT IS FURTHER, ORDERED, ADJUDGED, AND DECREED that the Clerk of this Court issue copies of this Order to the Sheriff of this Court and to any Law Enforcement Officer who shall personally serve this Order upon the Respondent, Owen W. Crumpacker of Lake County, Indiana, by reading the same to him and make the return of such service to this court.

All of which is ordered this

31 day of October, 1983.

/s/ Richard M. Givan
RICHARD M. GIVAN
Chief Justice of Indiana

IN THE SUPREME COURT

OF THE

STATE OF INDIANA

IN THE MATTER OF:	)	
	)	CAUSE NO.
OWEN W. CRUMPACKER	)	974 S 187

EXCERPTS FROM
TRANSCRIPT OF PROCEEDINGS
(November 15, 1983)

held in the above matter on November 15, 1983, in the Supreme Courtroom, Indiana State Courthouse, Indianapolis, Marion County, Indiana, before Notary Public Carol A. Karen, RPR/CP.

A P P E A R A N C E S

Chief Justice Richard M. Givan
Justice Roger Owen DeBruler
Justice Donald H. Hunter
Justice Dixon W. Prentice

For the Petitioner

Sheldon Breskow, Attorney
Gregory Fudge, Attorney

For the Respondent

(No appearance)

* * * * * *

MR. BRESKOW: Petitioner rests, your Honor.

CHIEF JUSTICE GIVAN: You rest?

MR. BRESKOW: Yes sir.

CHIEF JUSTICE GIVAN: All right. That will terminate the hearing at this time. The Court will take this matter under advisement.

We will issue you an arrest warrant for Mr. Crumpacker to bring him in the Court and give him an opportunity to read this transcript and to make answers, if he sees fit.

We are not in a position at this time to set a date for that appearance, not knowing when Mr. Crumpacker will be taken in custody on the warrant, but you will be notified of the time that we are able to have further hearing, you will be notified and you will be able to be

present.

MR. BRESKOW: Is the Court inclined to set bond at this time on the warrant?

CHIEF JUSTICE GIVAN: Not at this time. I think we will have Mr. Crumpacker taken in custody and make arrangements for his incarceration, and have the hearing as soon a we can possibly have it following his incarceration.

MR. BRESKOW: Thank you, your Honor.

CHIEF JUSTICE GIVAN: Are there any other questions? Do you have any questions?

MR. BRESKOW: No, your Honor, I don't. May I approach the bench?

(Benchside conference off the record)

CHIEF JUSTICE GIVAN: If there are no other matters before the Court --

I take it there are not?

MR. BRESKOW: There are not, your Honor.

CHIEF JUSTICE GIVAN: Court will rise.

MR. BRESKOW: I'm going to turn the exhibits back to the court reporter at this time on the record.

(Note court adjourned at 4:00 o'clock, P.M.)

Filed
Nov. 16, 1983

IN THE

SUPREME COURT OF INDIANA

IN THE MATTER OF	)	
	)	CAUSE NO.
OWEN W. CRUMPACKER	)	974 S 187

ORDER FOR ARREST

This cause, previously having been scheduled and the Respondent, Owen W. Crumpacker, having been ordered to appear, came to hearing on November 15, 1983. The respondent, being audibly called three times at the scheduled hour, failed to appear.

Upon consideration of the testimony of the witnesses before the Court on the day of hearing, this Court now finds that the Respondent was served on November 9, 1983, with notice of the scheduled hearing and the Respondent failed to comply with this Court's order

to appear and show cause why he should not be held in contempt of this Court. Accordingly, this Court now further finds that probably cause exists for the arrest of the Respondent for his contempt of this Court in not appearing as ordered.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by this Court that an arrest warrant issue forthwith for the Respondent, Owen W. Crumpacker, for his failure to appear on November 15, 1983 at a hearing in this cause as duly ordered.

IT IS FURTHER ORDERED that the Clerk of this Court issue copies of this Order and the Arrest Warrant entered this date to the Sheriff of the Indiana Supreme Court and any other police officer who shall arrest and detain the Respondent, Owen W. Crumpacker, in Marion County jail until he shall be

discharged by this Court.

All of which is Ordered this

16 day of November, 1983.

/s/ Richard M. Givan
Richard M. Givan
Chief Justice of Indiana

Filed
Nov. 16, 1983

IN THE

SUPREME COURT OF INDIANA

IN THE MATTER OF	)	
	)	CAUSE NO.
OWEN W. CRUMPACKER	)	974 S 187

ARREST WARRANT

TO: The Sheriff of the Indiana Supreme Court and any other police officer in the State of Indiana:

You are hereby Ordered and commanded to arrest and detain Owen W. Crumpacker, of Hammond, Indiana, forthwith and hold that person to answer in the Supreme Court of the State of Indiana why he should not be held in contempt for failure to appear as ordered by such Court.

And you are Ordered and commanded to commit Owen W. Crumpacker to the Marion County jail and thereafter

without unnecessary delay bring him before the Supreme Court of the State of Indiana.

IN WITNESS WHEREOF, I, Richard M. Givan, Chief Justice of the Indiana Supreme Court, hereto affix the seal thereof and subscribe my name at Indianapolis, Indiana, this 16 day of November, 1983.

/s/ Richard M. Givan

Richard M. Givan
Chief Justice of Indiana

Filed
April 4, 1984

IN THE

SUPREME COURT OF INDIANA

IN THE MATTER OF)
) CAUSE NO.
OWEN W. CRUMPACKER) 974 S 187

ORDER FINDING CONTEMPT

Comes now the Respondent, Owen W. Crumpacker, and appears pursuant to the warrant for his arrest issued by this Court on November 16, 1983, to answer why he should not be held in contempt for his failure to appear on November 15, 1983, as previously ordered.

And this Court, being duly advised, now finds that the Respondent, Owen W. Crumpacker, was served on November 9, 1983, with notice of the hearing on November 15, 1983, that the Respondent failed to appear as ordered, and that the Respondent has not

demonstrated that he should not be held in contempt for his failure to appear as ordered by this Court.

In view of the above considerations, this Court now finds that the Respondent, Owen W. Crumpacker, has engaged in direct criminal contempt of this Court by failing to appear on November 15, 1983, as ordered.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by this Court that the Respondent, Owen W. Crumpacker, is sentenced to serve a term of thirty (30) days in the Indiana State Farm for direct criminal contempt of this Court. Those provisions of law authorizing the diminution of sentence for good time served shall not apply.

DONE this 4th day of April, 1984.

/s/ Richard M. Givan
RICHARD M. GIVAN
Chief Justice of Indiana

DeBruler, Prentice, J. J., concur.
Pivarnik, Hunter, J.J., not participating.

Filed
April 4, 1984

IN THE

SUPREME COURT OF INDIANA

IN THE MATTER OF	)	
	)	Cause No.
OWEN W. CRUMPACKER	)	974 S 187

ORDER OF COMMITMENT

STATE OF INDIANA	)
	)
COUNTY OF MARION	)

TO THE SHERIFF OF THE SUPREME COURT OF INDIANA AND TO ANY MEMBER OF THE INDIANA STATE POLICE:

This Court, having previously heard testimony submitted on November 15, 1983, and having considered the testimony presented this date, now finds that the Respondent, Owen W. Crumpacker, is guilty of direct criminal contempt of this Court for his failure to appear on November 15, 1983, as ordered.

And this Court now fixes

Respondent's punishment at thirty days to be served in confinement at the Indiana State Farm at Putnamville, Indiana, for the direct criminal contempt of this Court, said confinement to commence on April 4th 1984.

IT IS THEREFORE, ORDERED AND ADJUDGED that the Respondent, Owen W. Crumpacker is guilty of contempt of this Court for failing to appear on November 15, 1983, as ordered and, accordingly, is committed to the Department of Correction for imprisonment at the Indiana State Farm at Putnamville, Indiana, for a period of thirty (30) days from and after the 4th day of April, 1984.

IT IS FURTHER ORDERED that those provisions of law authorizing the diminution of sentence for good time served shall not apply.

DONE at Indianapolis, Indiana,

this 4th day of April, 1984.

/s/ Richard M. Givan
RICHARD M. GIVAN
Chief Justice of Indiana

DeBruler, Prentice, J.J., concur.
Hunter, Pivarnik, J.J., not
participating.

STATE OF INDIANA

TO THE SHERIFF OF THE SUPREME COURT:

You are hereby commanded to transport Owen W. Crumpacker, Respondent under Cause Number 974 S 187, to the custody of the Department of Correction, Indiana State Farm, pursuant to the order of commitment entered this 4th day of April, 1984, in the case of In the Matter of Owen W. Crumpacker.

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

I, /s/ Marjorie H. O'Laughlin, Clerk of the Supreme Court of the State of Indiana, do hereby certify that the attached and foregoing is a true and complete copy of the order

of the court.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 4th day of April, 1984.

/s/ Marjorie H. O'Laughlin
Clerk, Supreme Court

Came to hand _____, 1984.
Respondent delivered to Department of Correction, Indiana State Farm, this _____ day of _____, 1984.

_____
Sheriff

Filed
April 4, 1984

IN THE

SUPREME COURT OF INDIANA

IN THE MATTER OF	)	
	)	Cause No.
OWEN W. CRUMPACKER	)	974 S 187

ORDER RE-SETTING SHOW CAUSE HEARING

The Respondent, Owen W. Crumpacker, now appearing before this Court, is hereby directed and ordered to appear on May 21st, 1984, at 10:00 A.M. in this court's Chambers (Room 317, State House, Indianapolis, Indiana) for a hearing to show cause why he should not be held in contempt of an Order of the Indiana Supreme Court, as set forth in the Verified Information of Contempt filed in this cause on July 25, 1983.

IT IS FURTHER ORDERED that the Clerk of this Court shall forward a copy of this order to the parties in this

proceeding.

Read to the Respondent in Open Court and entered this 4th day of April, 1984.

/s/ Richard M. Givan
Chief Justice of Indiana

DeBruler, Prentice, J.J., concur.
Hunter, Pivarnik, J.J., not participating.

IN THE

SUPREME COURT OF INDIANA

IN THE MATTER OF:	)	
	)	Cause No.
OWEN W. CRUMPACKER	)	974 S 187

NOTICE OF APPEAL

TO: MARJORIE H. O'LAUGHLIN
CLERK SUPREME COURT OF INDIANA

The Defendant Owen W. Crumpacker hereby appeals to the Supreme Court of the the United States from the findng and judgment entered by the Supreme Court of Indiana on April 4, 1984, finding said defendant guilty of direct criminal contempt for failing to appear before the Court on November 15, 1983, and sentencing said defendant to serve a term of thirty (30) days at the Indiana State Farm.

/s/ Owen W. Crumpacker
OWEN W. CRUMPACKER
17 Glendale Park
Hammond, Indiana 46320
Pro-se

DATED THIS 4th day of April, 1984.

CERTIFICATE OF SERVICE

I Owen W. Crumpacker affirm that I have this 12th, day of April, 1984, served upon the Clerk of the Supreme Court of Indiana a true and accurate copy of the foregoing via the regular United States Mail.

/s/ Owen W. Crumpacker
OWEN W. CRUMPACKER
Indiana State Farm
P.O. Box 76
Green Castle, Indiana
46135-0076

cc: Linley E. Pearson
Attorney General of Indiana
State House Indianapolis, IN 46204

Sheldon A. Breskow
Sec: Indiana Supreme Court
Disciplinary Commission
Indianapolis, Indiana 46204

Filed
April 13, 1984

IN THE

SUPREME COURT OF INDIANA

IN THE MATTER OF	)	Cause No.
	)	974 S 187
OWEN W. CRUMPACKER	)	(Original)

MOTION FOR STAY OF PROCEEDINGS AND/OR FIXING OF BAIL PENDING DETERMINATION OF DEFENDANT'S APPEAL TO THE SUPREME COURT OF THE UNITED STATES FROM THE FINDING AND SENTENCE OF THE SUPREME COURT OF INDIANA FINDING DEFENDANT GUILTY OF DIRECT CRIMINAL CONTEMPT AND SENTENCING HIM TO SERVE THIRTY DAYS IN THE INDIANA STATE FARM

TO: The Honorable Richard M. Givan
Chief Justice of Indiana and
the Judges of the Indiana Supreme
Court

Comes now the defendant, Owen W. Crumpacker, pro se, and respectfully represents to the Court as follows:

1. On Wednesday, April 4, 1984, defendant Owen W. Crumpacker was taken in custody in back of his office

in Hammond, Lake County, Indiana, and transported to the Zionsville exit of State Highway I65 where his custody was transferred to Paul Lombardo, Sheriff of the Indiana Supreme Court and a member of the State Police of the State of Indiana;

2. Defendant was delivered up to the Supreme Court at approximately 4:00 P.M. E.S.T.;

3. That said Supreme Court of Indiana consisting of Richard M. Givan, the Chief Justice, concurred in by De Bruler and Prentice, proceeded to find defendant guilty of direct criminal contempt and sentenced him to a jail term of thirty (30) days in the Indiana State Farm;

4. That defendant is a duly qualified candidate for the Office of U.S. Representative, 1st Indiana

Congresional District, in the Republican Primary Election to be held on Tuesday, May 8, 1984;

5. That Defendant is a duly declared and certified Candidate for the office of Precinct Committee man, precinct 17, Ward 4, Hammond, and delegate to the Republican State Convention, Delegate District 21, Hammond, in the Republican Primaries to the held on May 8, 1984;

6. That a copy of Defendant's conviction and sentence is attached hereto and made a part hereof as Exhibit A;

7. That at the time of his conviction and sentence, defendant orally moved for a stay of execution and to be released on bail which motion was perfunctorily denied;

8. That Defendant, as promptly as possible, and while

incarcerated in the Marion County Jail pending being transported to the Indiana State Farm, has prepared and served and filed his notice of appeal to the Supreme Court of the United States from the finding and sentence of the Indiana Supreme Court, a copy of which notice is attached hereto and made a part hereby, as Defendant's Exhibit "B";

9. That time is of the essence, and unless a Stay of Execution is granted or Defendant released on bail, he will have served his sentence before he has an opportunity to perfect his appeal and file his jurisidictional statement in the Supreme Court of the United States;

10. That Defendant will be unable to perfect his appeal to the United States Supreme Court if he is incarcerated in the Indiana State Farm

for thirty (30) days;

WHEREFORE, Defendant respectfully prays that the execution of the finding and sentence be stayed pending the determination of the Defendant's appeal to the Supreme Court of the United States or that the defendant be admitted to bail in a reasonable amount to enable him to perfect his appeal to the Supreme Court of the United States from the finding and sentence entered on April 4, 1984.

/s/ Owen W. Crumpacker
OWEN W. CRUMPACKER, ISF #46490
Indiana State Farm, Box 76
Greencastle, Indiana 46135

VERIFICATION AND PROOF OF SERVICE

OWEN W. CRUMPACKER, under penalty of perjury does hereby swear that the above allegations are true; that the attached Exhibits are full true and correct copies of the originals on file with the Court and that I served a copy of the above and foregoing Motion on the State of Indiana by delivering a copy to Linley E. Pearson, Attorney General, this 13 day of April, 1984.

/s/ Owen W. Crumpacker
OWEN W. CRUMPACKER,
Pro Se

STATE OF INDIANA)
) SS:
COUNTY OF PUTNAM)

Subscribed and sworn to before me, a Notary Public, in and for the County of Putnam, State of Indiana, this 13 day of April, 1984.

MY COMMISSION EXPIRES:

15 May 1987

/s/ Paul D. Jenner
Notary Public
Putnam County Resident

Filed
May 30, 1984

IN THE

SUPREME COURT OF INDIANA

IN THE MATTER OF:	)	Cause No.
	)	974 S 187
OWEN W. CRUMPACKER	)	(Original)

OWEN W. CRUMPACKER, Appellant

v.

INDIANA SUPREME COURT DISCIPLINARY COMMISSION, Appellee

AMMENDED

NOTICE OF APPEAL

MARJORIE H. O'LAUGHLIN

CLERK, SUPREME COURT OF INDIANA

The defendant, Owen W. Crumpacker, hereby appeals to the Supreme Court of the United States from the finding and judgment entered by the Supreme Court of Indiana on April 4, 1984, convicting defendant of direct

criminal contempt for alleged failure to appear before the Supreme Court on November 15, 1983; and sentencing him to serve a term of thirty (30) days in the Department of Correction, Indiana State Farm, without benefit of the good time statutes.

Defendant appeals under 28 U.S.C. § 1257(b) aserting that the procedures adopted by the Indiana Supreme Court are violative of the United States Consititution.

/s/ Owen W. Crumpacker
OWEN W. CRUMPACKER
17 Glendale Park
Hammond, IN 46320
(219) 932-1428
Pro Se

AFFIDAVIT OF SERVICE

STAE OF INDIANA)
) SS:
COUNTY OF LAKE)

OWEN W. CRUMPACKER, under penalty of perjury hereby swears that he mailed copies of the above and foregoing amended Notice of Appeal to the Executive Secretary of the Indiana Supreme Court Disciplinary Commission, Sheldon A. Breskow, Room 814, ISTA Bld., 150 W. Market Street, Indianapolis, IN 46204; the Indiana Attorney Generaly, Linley E. Pearson, Room 219 State House, Indianapolis, IN 46204; and the Chief Justice of Indiana, Hn. Richard M. Givan, Room 312 State House, Indianapolis, IN 46204, simultaneously with the filing of the amended Notice of Appeal with the Clerk.

Dated this 30 day of May 1984.

/s/ Owen W. Crumpacker
OWEN W. CRUMPACKER

FILED
November 9, 1976
Billie R. McCullou
Clerk

IN THE SUPREME COURT
OF THE
STATE OF INDIANA

IN RE: THE MATTER OF)
OWEN W. CRUMPACKER,) 74-S-187
An Attorney)

FINDINGS OF FACT
CONCLUSIONS OF LAW, AND
RECOMMENDATIONS OF HEARING OFFICER

The Indiana Supreme Court Disciplinary Commission filed its Amended Complaint for Disciplinary Action against Owen W. Crumpacker, hereinafter referred to as Respondent, on June 25, 1975. The undersigned was appointed Hearing Officer, qualified and assumed jurisdiction. The Amended Complaint contained 19 Counts. Evidentiary hearing commenced September 29, 1975, and concluded on December 3, 1975. Additional documentary evidence was received up and until the 3rd day of February, 1976. Approximately 31 days were taken up with the evidentiary hearing. Documentary evidence offered and admitted was voluminous. The Disciplinary Commission was represented by Attorneys David B. Hughes and Craig Stevens. Respondent appeared pro se, by counsel Richard A. Miller, and during Respondent's case in chief, by additional counsel John M. Lyons.

As required by law, the Hearing Officer will make findings of material fact, conclusions of law and recommendations. However, before attempting this task, a few preliminary comments and findings

are necessary.

Respondent has practiced law in northern Indiana for over 30 years and until January of 1973, headed the law firm of Crumpacker, Abrahamson and Reed in Hammond, Indiana. The partnership dissolved January 1, 1973; said termination was stormy.

Many of the charges against Respondent can be directly traced to the unsatisfactory partnership termination. There were disputes, and I believe some honest ones, concerning accounts, clients, and pending litigation. These disputes have never been resolved through court action; and the Hearing Officer could not resolve them here.

It was evident from the start that this proceeding wasn't the typical disbarment hearing. For this reason, the Hearing Officer's attitude on the introduction of evidence was liberal. Respondent strongly resented the hearing, which fact made it difficult for all. He honestly believes that many attorneys and Judges are out to crucify him. He further believes that he is one of the few remaining honest attorneys in Lake County, Indiana. Similar to Don Quixote, he attacks the windmills: a crusader.

This case is decided on the merits of each Count. Before undertaking this, it is necessary to note some legal questions which have some merit. Most of these, Respondent discusses in his brief: (A) Questions concerning the

procedures in the investigative stages; (B) Respondent's conduct took place directly in other litigation which is still pending; (C) Partnership disputes have not been resolved; (D) Distinctions between disbarment proceedings and contempt proceedings, and the purposes of both. He believes the "wolf pack" is on the game; this belief has merit. However, his conduct contributed strongly to the situation.

F I N D I N G S

COUNTS I, II, and III:

These charges are connected with the litigation described as Dedelow, Inc. et al -vs- Board of Commissioners of Lake County, et al, Lake Superior Court, Cause No. 171-43, Room 1, Hammond. This litigation was under the Public Lawsuit Statute and was filed in 1971 by Kenneth Reed, law partner in the firm of Crumpacker, Abrahamson and Reed; Respondent was the senior partner of the firm. This basically was Mr. Reed's case and the action was signed by Mr. Reed and also signed in the law firm's name. When the law firm dissolved in January of 1973, the case was pending on appeal; Court of Appeals 871A162. At that time there was no agreement as to who was to proceed with the litigation, nor was there any account of moneys in the litigation. Unsuccessful attempts were made concerning these matters in early 1973 by the former partners and Attorney Fred Donnersberger; who was employed to represent Mr. Kenneth Reed and Mr. Harold Abrahamson in connection with the dis-

solved partnership. Respondent filed a motion for extension of time in which to file an answer brief in the Appellate Court as to who was representing the appellees and therefore, who was entitled to the transcript. Respondent's authority was not challenged by the appellant's attorneys. Various affidavits were filed in the Appellate Court concerning the representation of appellees. The Appellate Court decided this question against the Respondent. The appellees in the lawsuit never specifically authorized Respondent to represent them on appeal. Because time was of the essence, it was Respondent's position he must make every effort to perfect the appeal; he did not wish any clients to suffer because of the partnership disputes. After the Court of appeals decision, Respondent made no further attempts to represent appellees.

The Hearing Officer finds for Respondent on Counts I and II. There was no intentional violation of DR1-102A (1), (4), (5) and (6).

Count III concerns disclosures of "confidences and secrets" of one Richard Klaas. These were supposedly disclosed in Respondent's motion filed before the Court of Appeals. Although the evidence is conflicting, the greater weight of it shows that Respondent received no confidential information from Richard Klaas. Respondent did, in fact, believe the motion which he filed in the Appellate Court. He was attempting to disclose an alleged fraud as a judicial officer. This Count is closely connected with the

partnership termination.

The Hearing Officer finds for Respondent; there is no intentional violation of DR1-102A.

COUNT IV A:

Prior to the termination of the law firm, a Probate estate was opened for Robert C. Croner by Kenneth Reed. When the firm dissolved, there was a dispute concerning this estate. These disputes have not been resolved by the Probate Court; nor have they been resolved in a lawsuit concerning the dissolution of the partnership. The Administratrix did make a demand upon Respondent for the Croner estate file. Respondent refused this demand until there was an accounting by his former partners. The Administratrix did not demand any particular papers in the file.

The Administratrix was not entitled to the entire file; she does not own it. Respondent's conduct did not violate DR1-102A (1), (5) and (6), nor DR9-102B (3) and (4). This dispute should be decided by the Court which has jurisdiction of the estate.

COUNT IV B:

In 1968, a condemnation lawsuit was filed entitled State of Indiana -vs- Abe Kushner, et al, 68-PSC-657 in Porter County, Indiana. Respondent's firm represented the landowners; a written agreement concerning the employment was entered into on August 27, 1968. Res-

pondent did the work in this lawsuit and, by agreement with his clients, the firm received $70,000 after the appraisers award was paid into court. The suit was eventually venued to LaPorte Circuit Court. In the spring of 1974, Respondent and his clients had a disagreement after which the clients demanded the firm's files and the prepaid contingent fee of $70,000. Respondent refused this demand. Subsequently, in March of 1975, this dispute came before the LaPorte Circuit Court, which ordered the Respondent to turn over certain papers and make an accounting. The condemnation lawsuit has never been tried and an appeal is pending concerning the LaPorte Circuit Court's turn over and accounting order.

Based on these findings, the Hearing Officer finds that Respondent did not violate DR1-102A (1), (5) and (6); DR2-110B (4); DR2-110A (3), nor DR9-102B (3) and (4). The evidence shows an honest, good faith dispute between respondent and these clients in that particular lawsuit.

COUNT V:

In July of 1975, Respondent filed an action in Lake Superior Court, Room 5, Hammond, Cause No. 573-448. The suit was to set aside a fraudulent judgment. It was a class action against approximately 40 defendants, including one Richard Klaas. Respondent never personally represented Mr. Klaas. This case is presently pending on appeal, Court of Appeals Cause No. 3174A15. The theory

of the lawsuit is fraud, past and continuing.

Respondent believed the allegations of his complaint. The Hearing Officer is unable to ascertain if his belief was reasonable under the circumstances. This question should not be decided here. In filing the lawsuit Respondent did not violate DR1-102A (1), (5) and (6), or DR5-105A.

COUNT VI:

In 1973, Respondent was searching for a Lake County taxpayer to intervene in a lawsuit. On March 14, 1973, he wrote to Mr. Russell Hopper in furtherance of this purpose. A telephone conversation followed and Mr. Hopper declined the invitation. The two were acquaintances. Mr. Hopper may have participated as a taxpayers' representative for Respondent in the past; the evidence is conflicting on this point. Mr. Hopper did not file a complaint with the Disciplinary Commission or testify at this hearing.

Hearing Officer finds that Respondent's conduct did not violate DR1-102A (1) and (6), nor DR2-103A.

COUNT VII:

A physical confrontation occurred between Respondent and Attorney William Spangler on May 6, 1971. Attorneys and clients were meeting for the purpose of settling some lengthy litigation; this did not take place in court. After some yelling, Respondent took a swing at Mr.

Spangler; no blow struck home. Respondent did not intend to hurt anyone. Charges were not filed resulting from this incident; either criminal, civil or contempt.

Respondent's conduct did not violate DR1-102A (1) and (6).

COUNT VIII:

This involves some uncomplimentary remarks directed by Respondent towards Attorney J. Edward McHie in early 1970. This happened during a deposition. Respondent apologized following the incident and the apology was accepted by Mr. McHie.

Hearing Officer finds that Respondent did not violate DR1-102A (5) and (6).

COUNT IX:

On March 21, 1974, there was a verbal exchange between Respondent and Attorney Richard W. Johnston. This took place in the Lake Superior Court, Room No. 1, Hammond, Indiana, The Honorable Cordell C. Pinkerton presiding. Judge Pinkerton did not testify, nor did the other party present, Attorney Richard W. Johnston. No contempt proceedings resulted from the ncident. There was not a delay or disruption of the court proceedings. Respondent's remarks, which were improper, were reasonably related to the judicial action, in furtherance of his position as an attorney for and on behalf of his clients.

Respondent's conduct did not violate DR1-102A (1), (5) and (6), nor did it violate DR7-106C (6).

COUNT X:

In early 1972, Respondent participated in the taking of a deposition which was often continued and was lengthy. The participants temperament became short near the conclusion. Respondent directed some uncomplimentary remarks towards Attorneys John P. McQuillan and Wilbur J. Glendening. The deposition did, however, proceed in an orderly course to a conclusion. The participants did not file a complaint with the Disciplinary Commission. The circumstances surrounding the incident are not clear.

Respondent's conduct did not violate DR1-102A (5) and (6).

COUNT XI:

Respondent was the attorney for litigants in Lake Circuit Court, Cause No. C71-1384. This was a taxpayers' lawsuit concerning fraud and the case drew much publicity. In June of 1974, Respondent filed a brief in the case and disseminated copies of it to various Judges and attorneys not involved in the lawsuit. The people who received it did not testify, -or make a complaint to the Disciplinary Commission. Local newspapers had previously published other orders about the case. The purpose of Respondent's actions was to gather support for his clients' lawsuit. His conduct

was not prejudicial to the orderly administration of justice, nor did it constitute the making of a prohibited extra judicial statement concerning litigation.

At worst, Respondent exercised poor judgment; he did not violate DR1-102A (1), (5) and (6), or DR7-107G (1), (2) and (5).

COUNT XII:

On July 1, 1974, Respondent wrote a letter to Judge James Moody, Lake Superior Court, Room No. 4. The letter was critical of Judge Moody's handling of a particular case; specifically, a previous order he entered which was sent to the Disciplinary Commission. The Hearing Officer is unable to determine why Judge Moody's order went to the Commission. Respondent's letter went there following the order for the purpose of defending his position; for the same reason, copies went to the news media who had published the order two days after it was executed; someone unknown furnishing it to them. It is evident that the press and public had basically been presented one side of the case shortly before the letter. It is also clear that Respondent, acting for his clients, desired to publish his position. Respondent believed the statements in the letter were true; the reasonableness of such belief is questionable.

Respondent did not violate DR1-102A (1), (5) and (6), nor did he violate DR8-102B.

COUNT XIII:

On August 8, 1974, Respondent wrote to Judge Moody; copies were sent to various other persons. The letter shows the continuing conflict between the two concerning pending litigation. Respondent did not knowingly make false statements in the letter. Again, his intention was to publish his clients' position. Respondent's theory is based on a conspiracy; the evidence supporting this is conflicting. Neither Judge Moody, nor Respondent's adversaries initiated contempt proceedings which would have offered Respondent an opportunity to explain his conduct.

Respondent did not violate DR1-102A (16), nor DR8-102B.

COUNT XIV:

It is alleged that Respondent made improper final oral argument in the case of State of Indiana -vs- John Gallison, N 3013, City Court of Hammond, on May 22, 1973. This was a jury case and concerned blocking a railroad crossing in the City of Hammond. In his argument, Respondent went beyond the scope of the evidence; for this he was admonished by the Court. Respondent and his client did believe the prosecutions against the railroad were politically motivated by the City.

Respondent's conduct did not violate the Disciplinary Rules, specifically DR1-102A (1), (5) and (6), nor DR7-106C (1) and (6).

COUNT XV:

Respondent filed a lawsuit on or about May 3, 1974, entitled Woodmar Realty Company -vs- Samuel C. Ennis and Company, et al, Lake Superior Court, Room No. 5, Cause No. 174-439. The 31 page complaint concerned numerous matters, facets and phases of the Woodmar litigation in Federal and State Courts going back to 1941; this suit is pending at this time. Respondent did, in fact, have authority to file this lawsuit. The contention of the Disciplinary Commission is that the suit was filed for the purpose of annoying and harassing attorneys and party litigants who, in the past, have in one way or another opposed Respondent; the evidence was not sufficient to support their contention. A suit was filed in Federal Court to enjoin the prosecution of the 1974 lawsuit; however, the suit to enjoin it was dismissed and an appeal is pending in the Court of Appeals for the Seventh Circuit. These tribunals have before them the parties in interest with jurisdiction to make necessary determinations.

Respondent's conduct in filing said lawsuit did not violate DR1-102A (1), (5) and (6), nor did it violate DR7-102A (1).

COUNT XVI and XVII:

Respondent was an attorney in DuBios -vs- Union Trust Company of Indianapolis as Trustee, et al, Cause No. 197-60. After pending for 17 years, the case was set for trial on October 12, 1973. On

that date, Respondent filed a motion for substituting certain parties and requested a continuance; both requests were granted by the Honorable Everett West. Judge West and Attorney Fred Donnersberger were not pleased with Respondent's motion. After granting the motion, Judge West imposed sanctions on Respondent; heated argument and accusations followed his decision. Both Respondent and Attorney Donnersberger lost their tempers. No contempt proceedings were initiated against Respondent.

Respondent's actions were not prejudicial to the administration of justice; nor did they cause unnecessary delay in the prosecution of the case. Respondent's conduct did not violate DR1-102A (1), (5) and (6), or DR7-102A (1), or DR7-106C (6).

COUNT XVIII:

The lawfirm of Crumpacker, Abrahamson and Reed received a $7,500 loan from the Mercantile National Bank of Hammond on March 6, 1970. This transaction was initiated by Respondent and was later renewed by other members of the law firm. The loan was for the purposes of out-of-pocket expenses connected with pending litigation which is still pending. After the law firm dissolved, Respondent personally paid the renewal note; this loan is still the subject of a partnership dispute. These moneys were not the clients' funds or property, nor were they aware of the transaction.

Respondent's conduct did not violate

DR1-102A (4).

COUNT XIX:

In 1971 the law firm represented Morris Victor in Victor -vs- Sylvester, et al, Porter Superior Court Cause No. 70-PSC-300. Attorney Harold Abrahamson did the work for Mr. Victor. A settlement was reached under which Mr. Victor was to receive $1,750 from each of two defendants. After one defendant paid his share, Mr. Victor consented that distribution be withheld until the firm received the entire settlement. The other half has never been paid by the defendant. Respondent wished to discuss it; however, Mr. Victor refused this request. Respondent does not believe that he owes Mr. Victor; however, clearly somebody owes him. The Hearing Officer cannot decide this partnership dispute.

Respondent did not violate DR1-102A (1) and (6), nor did he violate DR9-102B (4).

In conclusion, the Hearing Officer has found for Owen W. Crumpacker, the Respondent. The evidence clearly shows that he can be a difficult man; one who has pushed and bullied Judges and attorneys for years. Yet, he has done so as an advocate and with honesty. Unfortunately, many times he is unreasonable and hasty. Surely all professions must deal with difficult personalities. If they are honest and capable, there should be a place in the profession for them.

BEST AVAILABLE COPY

Respectfully submitted,

/s/ Bruce W. Douglas
Bruce W. Douglas, Hearing Officer

SUPREME COURT OF THE UNITED STATES

NO. A-1046

OWEN W. CRUMPACKER,
Appellant

v.

INDIANA SUPREME COURT
DISCIPLINARY COMMISSION

O R D E R

UPON CONSIDERATION of the application of the appellant,

IT IS ORDERED that the time for docketing an appeal in the above-entitled cause be, and the same is hereby, extended to and including September 1, 1984.

/s/ John Paul Stevens
Associate Justice of the
Supreme Court of the
United States

Dated this 13th
day of August 1984.

IN THE

SUPREME COURT OF INDIANA

IN THE MATTER OF	)	
	)	CAUSE
OWEN W. CRUMPACKER	)	NO. 974 S 187

O R D E R

DENYING "MOTION TO STRIKE AND EXPUNGE ORDER TO APPEAR FOR PRONOUNCEMENT OF JUDGMENT FILED ON JANUARY 27, 1982, FOR LACK OF JURISIDCTION OVER THE PERSON OF THE PURPORTED RESPONDENT, OWEN W. CRUMPACKER, AND THE SUBJECT MATTER OF THE PROCEEDINGS".

COMES NOW Owen W. Crumpacker and files his "Motion to Strike and Expunge Order to Appear for Pronouncement of Judgment Filed on January 27, 1982, for Lack of Jurisdiction Over the Person of the Purported Respondent, Owen W. Crumpacker, and the Subject Matter of the Proceedings."

THIS COURT BEING DULY ADVISED IN THE PREMISES now DENIES the "Motion to

Strike and Expunge Order to Appear for Pronouncement of Judgment Filed on January 27, 1982, for Lack of Jurisdiction Over the Person of the Purported Respondent, Owen W. Crumpacker, and the Subject Matter of the Proceedings."

DONE AT INDIANAPOLIS, INDIANA this 5th day of February, 1982.

/s/ Richard M. Givan
RICHARD M. GIVAN
Chief Justice of Indiana

IN THE

SUPREME COURT OF INDIANA

IN THE MATTER OF	)	
	)	CAUSE
OWEN W. CRUMPACKER	)	No. 974 S 187

ORDER OF COMMITMENT

STATE OF INDIANA	)	
	)	SS:
COUNTY OF MARION	)	

TO THE SHIERIFF OF THE SUPREME COURT OF INDIANA AND TO ANY MEMBER OF THE INDIANA STATE POLICE:

This Court, having previously heard evidence submitted on June 29, July 2, July 16, and July 21, 1981, in support of and in opposition to Verified Information for contempt filed in twenty-nine counts by the Disciplinary Commission of this court; having examined and considered the evidence presented at such hearings and filed under this

cause; and having reviewed the pleadings tendered by the parties, including proposed findings of fact presented by each party; now finds that the Respondent, Owen W. Crumpacker is guilty of contempt of this Court in violating this Court's order of disbarment dated November 29, 1978, and guilty of contempt for his conduct during the hearing of this cause on July 2, 1981.

And this Court now fixes Respondent's punishment at ninety (90) days to be served in confinement at the Indiana State Farm at Putnamville, Indiana, for the indirect criminal contempt and a concurrent term of ninety (90) days for the direct criminal contempt of this Court, said confinement to commence on 11th day of February, 1982.

IT IS THEREFORE ORDERED AND ADJUGED that Respondent, Owen W. Crumpacker is guilty of contempt of this

Court for violating its order of disbarment entered November 29, 1978, and for contemptuous conduct during the hearing of this cause on July 2, 1981, and; accordingly, is committed to the Department of Correction for imprisonment at the Indiana State Farm at Putnamville, Indiana, for a period of ninety (90) days for each offense, such terms to be served concurrently from and after the 11th day of February, 1982.

IT IS FURTHER ORDERED that those provisons of law authorizing the diminution of sentence for good time served shall not apply.

DONE at Indianapolis, Indiana, this 11th day of February, 1982.

/s/ Richard M. Givan
RICHARD M. GIVAN
Chief Justice of Indiana

DeBruler, Hunter, Prentice, J.J., Concur
Pivarnik, J., Not Participating

STATE OF INDIANA
OFFICE OF THE CHIEF JUSTICE

Richard M. Givan
Chief Justice of the State

Mr. Paul Jenner
Administrator
Indiana State Farm
Putnamville, IN 46135

RE: Owen W. Crumpacker

Dear Mr. Jenner:

This letter is to verify our telephone conversation today in which you inquired as to whether or not Owen Crumpacker was to receive good time allowance under I.C. 35-50-6-1, et seq.

As you know, the commitment by this Court specifically states that Mr. Crumpacker is to receive no good time allowance. He is to serve a ninety day term of incarceration under the two concurrent ninety day sentences for contempt of court.

In so sentencing Mr. Crumpacker, the court was following the authority

laid down by the Indiana Supreme Court in the case of State v. Shumaker, (1928) 200 Ind. 716, 164 N.E. 408. In the Shumaker case the Court held that contempt of court is not a criminal action and that the power to punish lies entirely within the court and not within the legislative or administrative branch of government.

You will note I.C. 35-50-6-1 specifically refers to "A person imprisoned for a felony ..." is subject to the good time law and I.C. 35-50-6-2 states "A person imprisoned for a misdemeanor ..." is subject to the good time. Mr. Crumpacker has been convicted of neither a felony nor a misdemeanor but has been found guilty of contempt of court. Thus, he does not come under either the good statute or the pardon provisions in the Indiana Constitution.

He is, therefore, to be

incarcerated for the full ninety days stated in the commitment unless otherwise ordered by this Court.

Sincerely yours,

/s/Richard M. Givan
Richard M. Givan
Chief Justice of Indiana

RMG/JA

cc: Hon. Donald H. Hunter
Hon. Roger O. DeBruler
Hon. Dixon W. Prentice
Hon. Alfred J. Pivarnik

FEDERAL CIVIL RIGHTS ACTS

42 U.S.C.A.:

§ 1982. Civil action for deprivation of rights.

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

§ 1985. Conspiracy to interfere with civil rights--Preventing officer from performing duties.

Obstructing justice; intimidating party, witness, or juror

(2) If two or more persons in any State or Territory conspire to deter, by force, iitimidation, or threat, any party or witness in anv court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, petit juror in any such court, or to injure such juror in his person or property on account of any

verdict, presentment, or indictment or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws:

Depriving persons of rights or privileges

(3) If two or more person in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner toward or in favor of the election of any lawfully qualified person as an elector for President or Vice-President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set

forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

§ 1988. Proceedings in vindication of civil rights

The jurisdiction in civil and criminal matter conferred on the district courts by the provisions of this chapter and Title 18, for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisidction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of criminal nature, in the infliction of punishment on the party found guilty.

In any action or proceeding to enforce a provision of sections 1981, 1982, 1983, 1985, and 1986 of this title, title IX or Public Law 92-318, or in any civil action or proceeding, by or on behalf of the United States of America, to enforce, or charging a violation of, a provision of the Untied States Internal Rvenue Code, or title VI of the Civil Rights Act of 1964, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs. (As amended Pub.L. 94-559, §2, Oct. 19, 1976, 90 Stat. 2641.)

BURNS INDIANA STATUTES ANNOTATED
CODE EDITION, COURT RULES, BOOK 2

PART VI, RULES FOR ADMISSION TO THE BAR AND THE DISCIPLINE OF ATTORNEYS

Admission and Disciplinary Rule 23

DISCIPLINARY COMMISSION AND PROCEEDINGS

* * * * *

Section 2. Grounds for Discipline

Grounds for discipline and disciplinary action shall be conduct that violates the Code of Professional Responsibility and the Code of Judicial Conduct and Ethics heretofore adopted by this Court as well as the standards or rules of legal and judicial ethics or professional responsibility adopted from time to time by this Court.

* * * * *

Section 10. Investigatory Procedures

(a) Upon receipt of a written, verified claim of misconduct [hereinafter referred to as "the grievance"], from a member of the public, a member of this Bar or a member of the Commission and completion of such preliminary investigation as he deems appropriate, the Executive Secretary shall:

1. Dismiss the claim with the approval of the Commission, if he determines that it raises no substantial question of misconduct; or
2. If he determines that it does raise a substantial question of

misconduct, send a copy of the grievance by certified mail to the attorney against whom the grievance is filed [hereinafter referred to as "the respondent"] and shall request a written response within twenty [20] days after the respondent receives a copy of the grievance.

In the event of a dismissal as provided herein, the person filing the grievance and the respondent shall be given written notice of the Executive Secretary's determination. In the event of a determination that a substantial question exists, the matter shall proceed to (b) hereinafter. Amended Nov. 30, 1971.

(b) Thereafter, within forty-five [45] days, after notice to the respondent, if the Executive Secretary, upon consideration of the grievance, the preliminary investigation and any response from the respondent, determines there is a reasonable cause to believe that the respondent is guilty of misconduct the grievance shall be docketed and investigated. If he determines that no such reasonable cause exists, the grievance shall be dismissed with the approval of the Commission. In either event, the person filing the grievance [hereinafter referred to as "the complainant"] and the respondent shall be given written notice of the Executive Secretary's determination.

(c) If the grievance is docketed, for investigation, the Executive Secretary shall conduct an investigation of the

grievance. Upon completion of the investigation the Executive Secretary shall promptly make a report of the investigation and his recommendations to the Commission, at its next meetings.

* * * * *

Section 12. Prosecution of Grievances

(a) In the event the Commission determines that the misconduct, if proven, would warrant disciplinary action the Executive Secretary shall prepare a verified complaint which sets forth the misconduct with which the respondent is charged and shall prosecute the case.

(b) The complaint shall be entitled "In the Matter_____", naming the respondent. Six [6] copies shall be filed with this Court. The complaint may be verified on information and belief, and shall be served as in civil actions upon the respondent and the complainant promptly after filing. If the respondent cannot be found, this Court will, upon a proper showing, direct notice to be given by publication as in civil actions.

Section 13. Hearing Officers

In addition to the powers and duties set forth in this Rule, hearing officers shall have the power and duty to:

(a) conduct a hearing on the complaint of misconduct within sixty [60] days after the Commission's determination of reasonable cause;

(b) administer oaths to witnesses;

(c) receive evidence and make written

findings of fact and recommendations to the Court; and

(d) do all things necessary and proper to carry out their responsibilities under this rule.

Section 14. Proceedings before the Hearing Officers

(a) The rules of pleading and practice in civil cases shall not apply. No dilatory motions shall be entertained. The case shall be heard on the complaint and an answer which may be filed by the respondent within thirty [30] days after notice of the filing of the complaint. An answer, if filed, may assert any legal defense. If the respondent shall elect to file an answer, he shall file six [6] copies with this Court. An answer need not be filed, in which case the complaint shall be taken as denied. A respondent may on a showing of good cause petition for a change of hearing officer within ten [10] days after the appointment of such hearing officer.

(b) The complainant and the respondent shall be given not less than fifteen [15] days written notice of the hearing date. The respondent shall have the right to attend the hearing in person, to be represented by counsel, to cross-examine the witnesses testifying against him and to produce and require the production of evidence and witnesses in his own behalf, as in civil proceedings.

(c) The proceedings may be summary in form and shall be without the intervention of a jury and shall be reported.

(d) Within thirty (30) days after the conclusion of the hearing, the hearing officer shall determine whether misconduct has been proven by preponderance of the evidence and shall submit to the Supreme Court written findings of fact deduced by him from the evidence. The hearing officer may submit recommendations concerning the disposition of the case with his findings of fact, but such recommendations shall be given only such weight by the court as it believes to be consistent with a paramount consideration of uniformity of discipline throughout the state. A copy of said findings and recommendations, if any, shall be served by the hearing officer on the respondent and the executive secretary of the Disciplinary Commission, at the time of filing the same with the Supreme Court. This rule shall be effective on and after its adoption. Ammended eff. March 14, 1973.

* * * * *

Section 15. Supreme Court Review

(a) The respondent, complainant or Commission shall have thirty [30] days after the filing of the hearing officers inding and recommendation to petition for a review of the same before the Supreme Court. If no petition for review is filed within thirty [30] days of the finding and recommendation of the hearing officer the Supreme Court shall enter judgment or such other appropriate order in the premises.

(b) Upon receipt of written recommendation for suspension, pending final determination of the cause, this Court may

forthwith enter an order of suspension thereon. Respondent shall have fifteen [15] days thereafter to petition this Court for a review and a dissolution of such order.

(c) In the event that this Court grants a petition under this Section 15, briefs may be filed and oral arguments heard, as the Court shall determine. Such briefs need not conform to the rules of this Court. Upon a review the Court shall determine whether the findings and recommendations of the hearing officer or officers are supported by sufficient evidence and shall enter its judgment, with or without opinions as the Court shall determine.

* * * * *

Section 24. Rules of Procedure

The Commission may adopt rules and regulations for the efficient discharge of its powers and duties. Such rules and regulations shall become effective upon approval by a majority of this Court.

Section 25. Effective Date

This Rule shall be effective as of June 23, 1971. Cases pending before the local and State Bar Association Grievance Committees as of the effective date may be administered and adjudicated by such committees in accordance with the procedures employed by such committees prior to the adoption of this Rule or may be referred by such committees to the Commission for administration and adjudication in accordance with this Rule. Provided further these rules

shall be applicable to all pending disciplinary actions except to the extent that the Court finds their application in a particular case pending when the rules take effect would not be feasible or would work injustice, in which event the former procedure shall apply.

* * * * *

On January 1, 1977, the Supreme Court of Indiana adopted the following Amendment to A & D Rule 23, Section 15:

(c) In the event a party does not concur in a factual finding made by the hearing officer and asserts error in such finding in the petition for review, such party shall file with the petition for review a record of all the evidence before the hearing officer relating to this factual issue. Within thirty (30) days of the filing of the transcript, opposing parties may file such additional transcript as deemed necessary to resolve the factual issue so raised in the petition for review. Any transcript filed must be settled, signed and certified as true and correct by the hearing officer. The fee paid for procuring a transcript or additional transcript shall be included in the costs of the disciplinary proceeding.

EXCERPTS FROM THE
VERIFIED MOTION FOR RELIEF
FROM AND RECONSIDERATION
OF THE DISCIPLINARY ACTION
ENTERED ON NOVEMBER 29, 1978,
SERVED AND FILED ON FEBRUARY 10, 1979

(4) Respondent alleges that he has been denied due process of law as guaranteed him under the 1st and 14th Amendments to the United States Constitution by the Disciplinary Action of November 29, 1978, in each of the following particulars:

(a) The twenty-seven (27) page per curiam "Disciplinary Action" was entered without notice or hearing and in direct violation of the provisions of A & D Rule 23, Section 15. Supreme Court Review, P (c), reading in pertinent part as follows:

"(c) In the event that this Court grants a petition under this Section 15, briefs may be filed and oral ar-

> guments heard, as the Court shall determine. Such briefs need not conform to the rules of this Court. Upon a review the Court shall determine whether the findings and recommendations of the hearing officer or officers are supported by sufficient evidence and shall enter its judgment, with or without opinion as the Court shall determine."

Over an extended period of time, from November 9, 1976, when the Hearing Officer, Judge Bruce W. Douglas, entered Findings of Fact, Conclusions of Law and Recommendations in Respondent's favor, through and including January , 1978, Respondent prepared, served and filed extensive objections, supported by briefs, to the petitions of complainant Saul I. Ruman and the Disciplinary Commission for a review of the hearing officer's findings. Neither the objections nor the petitions for review were ruled upon, and the Court had not granted the petitions for review under Section 15, when the twenty-seven (27) page Disciplinary

Action was filed.

(b) The hearing officer, after extensive hearings, determined that misconduct had not been proven by a preponderance of the evidence with regard to a single one of the XX counts of the amended complaint filed on June 25, 1975. ("(f) Within thirty (30) days after the conclusion of the hearing, the hearing officers shall determine whether misconduct has been proven by a preponderance of the evidence and shall submit to the Supreme Court written findings of fact. Recommendations concerning the disposition of the case may be made by the hearing officer in his discretion. A copy of said findings and any recommendations shall be served by the hearing officer on the respondent and the Executive Secretary of the disciplinary commission at the time of filing same with the Supreme

Court." A & D Rule 23, Section 14, P [f]) Neither the complainant, Saul I. Ruman, nor the Disciplinary Commission questioned the sufficiency of the evidence to support the findings of fact as required by the most recent amendment of Section 15. Supreme Court Review, P (c), reading in pertinent part as follows:

> "(c) In the event a party does not concur in a factual finding made by the hearing officer and asserts error in such finding in the petition for review, such party shall file with the petition for review a record of all the evidence before the hearing officer relating to this factual issue. Within thirty (30) days of the filing of the transcript, opposing parties may file such additional transcript as deemed necessary to resolve the factual issue so raised in the petition for review. Any transcript filed must be settled, signed and certified as true and correct by the hearing officer. . ."

As admitted on the face of the Disciplinary Action, the Court ignored the findings of fact, as authorized by the provisions of Section 15, and relied upon

recitations of evidence from a brief (or briefs) prepared in Hammond, Indiana, after the record and exhibits filed by Judge Bruce W. Douglas on November 9, 1976, were delivered by the commission's attorney, David Hughes, to the complainant, Saul I. Ruman, for the use of Hammond attorneys Harold Abrahamson and Kenneth D. Reed, who were the major fabricators of the XX count amended disciplinary complaint.

(c) Respondent has been denied due process of law under the 14th Amendment in that the Court has taken away his means of earning a living without having accorded him the benefit of a judicial determination of the facts by a judge who had conducted the trial, weighed the testimony, observed the witnesses before him and determined what has been proven and what has not been proven. It ap-

pears on the face of the Disciplinary Action that the Court has undertaken to make its own factual determinations without having seen the witnesses, heard their testimony and weighed the evidence in the manner provided for by the law.

(d) Respondent has been denied due process of law and equal protection of the law in that the Court has failed and refused to follow all of its prior decisions on the subject of necessity of giving full credence to the findings of its hearing officer on disputed questions of fact. In no instance since A & D Rule 23 was adopted has the Court ignored the findings of the hearing officer appointed by it to hear and determine the facts. The Court, in the present instance, has ignored the findings of the hearing officer and has, erroneously, entered findings of its own without a judicial de-

termination of the facts.

(e) The Court, in entering its per curiam Disciplinary Action on November 29, 1978, has ignored all of the pleadings and papers on file in the cause, has ignored the court reporter's transcript of the proceedings in open court during the extensive hearings that commenced on September 29, 1975, and were concluded on December 3, 1975, has ignored the thousands upon thousands of pages of documentary evidence, and has filed its twenty-seven page Disciplinary Action without any consideration of the extensive record filed by Honorable Bruce W. Douglas in support of the Findings of Fact.

(5) Respondent has been denied due process of law in that he has not had the benefit of a fair and impartial tribunal. The complainant, Hammond Attorney Saul I. Ruman, is and has been

since November 19, 1975, the attorney for Judge Alfred J. Pivarnik in a $600,000.00 libel and slander suit filed in the Lake Superior Court, Room No. Four, Gary, under cause no. 475-2328, entitled Alfred J. Pivarnik, et al. vs. Alex Bottos, Elmer L. Jacobsen, Owen W. Crumpacker, Sherman Skolnick and David Glenn Hoffman. On August 21, 1978, Respondent, by his attorney, Richard A. Miller, and as attorney for Elmer L. Jacobsen, former Director of the Northwest Indiana Crime Commission, had filed motions requiring Judge Alfred J. Pivarnik to produce his income tax returns and other financial data. Further, complainant Saul I. Ruman had agreed to produce Alfred J. Pivarnik for discovery deposition purposes in preparation for the trial of the libel and slander suit assigned for trial before a jury on April

23, 1979. Copies of the pertinent pleadings and motion to produce are attached hereto and made a part hereof as Exhibits "C," "D," "E," and "F." In addition, Respondent, on November 29, 1978, was the attorney of record in a civil rights action pending in the United States District Court for the Northern District of Indiana, Hammond Division, under cause no. H77-270, in a proceedings captioned Elmer L. Jacobsen vs. Alfred J. Pivarnik, et al., a copy of the complaint in said action being attached hereto and made a part hereof as Exhibit "G." Further, on November 29, 1978, Respondent was the attorney of record for Elmer L. Jacobsen in an appeal from a decision entered by Judge Alfred J. Pivarnik as Judge of the Porter Superior Court, on August 6, 1975, in a criminal contempt case. Respondent's client, Elmer L. Jacobsen, was

found guilty of criminal contempt and sentenced to thirty-two (32) days in the Porter County Jail without bond. Judge Pivarnik's attorney, Saul I. Ruman, and his associate, Richard J. Lesniak, a law partner of Rudolph Val Dawson, Chairman of the Disciplinary Commission, had intervened on July 21, 1975, allegedly to assist Judge Pivarnik in the orderly disposition of the proceedings. The Court of Appeals of Indiana, on January 15, 1979, rendered a split decision with a majority opinion by George B. Hoffman, Jr., Judge, upholding the criminal contempt convictions. (Elmer L. Jacobsen, Defendant-Appellant vs. State of Indiana, Plaintiff-Appellee, Indiana Court of Appeals, Third District, Cause No. 3-1175 A 247) Prior to May 11, 1977, when Judge Alfred J. Pivarnik was sworn in as Judge of the Supreme Court of Indiana by Gover-

nor Otis R. Bowen, Respondent's client, Elmer L. Jacobsen, had filed a complaint with the Judicial Qualifications Commission of Indiana, seeking to obtain the removal of Judge Pivarnik as Judge of the Porter Circuit Court (and ex-officio judge of the Porter Superior Court) for various acts of alleged misconduct. Among other acts of judicial misfeasance charged, was the issuance of press releases by Judge Alfred J. Pivarnik and his attorney, Saul I. Ruman, in connection with the proposed filing of a libel and slander suit in his own court at Valparaiso, against Reverend ROGER Voegtlin of the Fairhaven Baptist Church, Reverend James Vineyard of the First Baptist Church of Hammond and the First Baptist Church of Hammond, seeking damages in the amount of $1,500,000.00 for alleged conspiracy to libel and slander said

Judge Pivarnik. Complainant Saul I. Ruman has prosecuted the various legal actions for and on behalf of Judge Alfred J. Pivarnik without cost or expense to either the Judge or his family. In the proceedings instituted against Reverend Roger Voegtlin, et al., presently pending in the Jasper Circuit Court at Rensselaer, Judge Alfred J. Pivarnik and his family contend that Respondent Owen W. Crumpacker, his former client, Elmer L. Jacobsen, Alex Bottos, Sherman H. Skolnick and David Glenn Hoffman conspired and confederated with Reverend Voegtlin, Reverend Vineyard and the First Baptist Church of Hammond to maliciously libel and defame Judge Pivarnik and his family. All of these facts and circumstances were fully known to the Court when the Disciplinary Action was filed on November 29, 1978.

(6) Respondent respectfully represents that the Disciplinary Action is replete with material errors of fact which would have been fully demonstrated by Respondent and his counsel had they been given a hearing before the Court. For example, the Court misconstrues and misstates the facts alleged by way of the affirmative defenses and the volumes of documentary evidence, which the Court has not looked at, supporting each and every allegation of the affirmative defenses. For the purpose of establishing, generally, the material errors which the Court has ignored, Respondent has attached representative excerpts from the record, as Exhibits "H" and "I." Contrary to the statements in the Disciplinary Action, the authors of the Disciplinary Commission's brief have ignored not only the testimony of the witnesses on the

issues presented, but have failed to either include or refer to the documentary evidence offered, examined and received in evidence by the hearing officer.